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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,843	08/30/2001	Akihiko Akamatsu	2001_1226A	6888

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EXAMINER

BHAT, NINA NMN

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,843

Applicant(s)

AKAMATSU ET AL.

Examiner

N. Bhat

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

1. The disclosure is objected to because of the following informalities: In the specification Page 2, second paragraph applicant recites "... a gelatinizer comprised of 1 or no less than 2 kinds of polysaccharide reactive to glucomannan" This statement is confusing and incomprehensible. The gelatinizer can include 1 polysaccharide, which reacts with glucomannan or can include more than 1 polysaccharide. The recitation of "no less than 2" is incorrect since 1 polysaccharide is less than 2 kinds of polysaccharide. Appropriate correction is required. Applicant is to make this correction in the entire specification.
2. The abstract of the disclosure is objected to because it should be in single paragraph no more than 150 words and directed to the claimed invention. Correction is required. See MPEP § 608.01(b).
3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 applicant recites "jelly-like" which renders the claims indefinite as it not clear applicant means by jelly like it could be jelly like in appearance or jelly-like in taste or color. Applicant should avoid "something-like" recitations when drafting claim and draft the claim in clear, positive meaningful language and recite a gelled liquid seasoning or liquid seasoning jelly. Suitable correction is required. In claim 1 and 3, applicant recites that the gelatinizer is comprises of 1 or no less than 2 kinds of polysaccharides reactive to glucomannan, which is confusing for reasons delineated

Art Unit: 1761

above. Applicant should recite the composition includes at least one polysaccharide reactive with glucomannan to obviate the rejection and also obtain coverage that more than one polysaccharide is contemplated in the composition.

4. Claims 2 and 4-6 are rejected as being dependent upon a rejected base claim.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP02001309760A to Fuwa et al.[English Abstract only]

Fuwa et al. teach providing a gelatinous seasoning composition having viscoelasticity, which includes a liquid seasoning, which is mixed with gelling agents so that the liquid seasoning becomes gelatinous. The gelling agents include xanthan gum, locust bean and gellan gum. The gel strength is 60-60 g/cm².

However, Fuwa et al. does not provide a gelled liquid seasoning, which includes glucomannan, and at least one polysaccharide, which reacts with the glucomannan to gelatinize the liquid seasoning.

It would have been obvious from reading Fuwa et al. to provide a gelled liquid seasoning which includes using a combination of polysaccharides and gelatinizers which is admixed with a liquid seasoning to provide a gelled seasoning composition. To use joule heat or heating the liquid composition to cause the liquid and polysaccharides and gelatinizers/gums to gelled would have been obvious to one having ordinary skill in the art since it is well known that heat is required to promote gelation of compositions which include thickeners, gelatinizers, gums, hydrocolloids, polysaccharides such as gellan gum, glucomannan, xanthan gum, locust bean gum etc. To replace the gellan gum for glucomannan or vice versa would have been obvious to one having ordinary skill in the art because to use either gellan gum or glucomannan both polysaccharides are functionally equivalent thus permissible to substitute one for another. Thus when replacing the gellan gum as taught in Fuwa et al. for glucomannan which is admixed with a liquid seasoning to provided a gelled seasoning composition renders applicant's invention as a whole obvious.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP408308527 teaches providing a gel-like seasoning which includes a liquid seasoning such as soy sauce and water gelled with a xanthan gum, locust bean gum and water soluble hemicellulose to obtain a gelled seasoning. JP 405199853 teaches a glucomannan containing tokoroten. Popper et al. teach a gelled

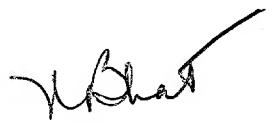
Art Unit: 1761

emulsion product containing chitosan. Ikede et al. teach a low calorie food made from gel particles of glucomannan coagulum. Hosogoe et al. teach flavored konnayaku gelled composition. Adachi teaches providing a dehydrated gel composition form hydrated isolated acetylated gellan gum, which is used as a thickener in dressings and other types of food applications. Noda et al. teach a seasoning, texture improver and drip inhibitor. Bienvenu teaches a gelled seasoning sheet for applying seasonings to a food.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 703-308-3879. The examiner can normally be reached on Monday-Friday, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.


N. Bhat
Primary Examiner
Art Unit 1761

August 8, 2003